

RYAN P. DINGS, et al.	:	CIVIL ACTION
	:	
v.	:	
	:	NO. 12-4559
GERARD LENHOFF, JR.	:	

First, Plaintiff's Complaint does not demand a jury trial. Although the Civil Cover Sheet attached to the Complaint checks the "yes" box in the Section titled JURY DEMAND," the "yes" box can only be checked "if demanded in complaint."

Second, in 2012 the Pennsylvania Superior Court held that claims under the UTPCPL cannot be tried before a jury. Fazio v. Guardian Life Insurance Company of America, 2012 Pa. Super 273, 2012 WL 6177271 (Pa. Super 2012). Since the Pennsylvania Supreme Court has not decided this issue, Fazio is the only Pennsylvania appellate decision on this subject. The court's opinion thoroughly examines the issue, and in our view properly construes the statute. We see no reason to believe that the Pennsylvania Supreme Court would rule otherwise.

Accordingly, in this diversity case we will apply the law as stated in Fazio.

An appropriate ORDER follows.

BY THE COURT:

/s/Jacob P. Hart

JACOB P. HART
UNITED STATES MAGISTRATE JUDGE